IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICGTION

INCOME TAX REFERENCE NO. 207 of 1995

The Commissioner of Income Tax ... Applicant.

vs.

M/s. Montreal Engineering (Eastern) Ltd. ..... Respondent

Mr. Parag Vyas i/b. H. D. Rathod for Applicant.

CORAM: V**. C. DAGA AND A. S. AGUIAR JJ.**

Date: 10th August, 2005.

P. C. :

1. By this reference, arising out of I.T.A. No. 5059/Bom/87, for Assessment Year 19741-75, under section 256(1) of the Income-tax Act the Tribunal has referred the following question of law for opinion at the instance of the Revenue:

> (1) Whether on the facts and in the circumstances of the case and in law, the Tribunal was right in law in holding that the assessing officer was not justified in disallowing a sum of Rs.1,15,810/- out of remuneration of Rs.1,63,810/- paid to Mr. Skinner, an employee – director of the assessee – company, under the provisions of sec. 40(c) of the Income Tax Act , 1961.

2. Both counsel appearing for the rival parties agree that the above questions have been covered by decision of the Apex Court in the

case of **Commissioner of Income Tax vs. Hico Products Pvt. Ltd. [1993] 201 ITR page 567 (Bom.)**, In this view of the matter both the questions referred to us is answered in the affirmative i.e. in favour of the assessee and against the Revenue. Reference accordingly disposed of with no order as to costs.

(V. C. DAGA J.)

(A. S. AGUIAR J.)

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